

REMARKS

In response to the Office communication mailed September 19, 2005, Applicant hereby elects, with traversal, SEQ ID NO: 18. Claims 31-33, 35, 37-45, 47 and 49-52 require the use of, or claim per se, that SEQ ID NO.

Claims 16-33, 35, 37-45, 47 and 49-52 are currently pending in this application, with Claims 16, 33 and 45 being independent. Claims 34, 36, 46 and 48 have been cancelled without prejudice. Claims 16, 17, 33, 35, 37-40, 44, 45, 47 and 49 have been amended. Applicant submits that no new matter has been added.

As amended, each of independent Claims 16, 33, and 45 requires the use of, or claims per se, "at least one peptide selected from the group consisting of SEQ ID NO: 16, SEQ ID NO: 17, SEQ ID NO: 18, SEQ ID NO: 19, and SEQ ID NO: 20." Despite the indication in the above-referenced Office communication that only one SEQ ID NO should be elected, Applicant submits that these claims, and all claims dependent therefrom, are also entitled to Examination. According to MPEP § 803.04 "normally ten sequences constitutes a reasonable number for examination purposes. Accordingly, in most cases, up to ten independent and distinct nucleotide sequences will be examined in a single application without restriction." None of the factors listed in § 803.04 as necessitating a reduction in the number of sequences that may be reasonably examined (such as a recitation of three dimensional folding) are present in SEQ ID NOS: 16-20 of the present application. Moreover, Applicant notes that only five SEQ ID NOS (SEQ ID NOS: 16-20) are recited in the quoted Markush group, and that these SEQ ID NOS are all related, in that they are all ultimate species of SEQ ID NO: 15. As such, Applicant submits that examination of independent Claims 16, 33 and 45, and all claims dependent therefrom,

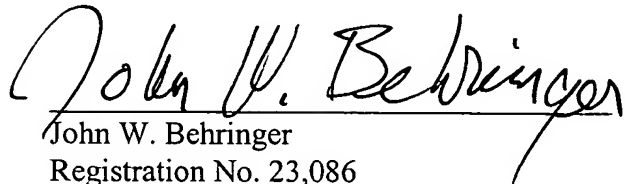
does not constitute an unreasonable burden on the Examiner and furthers the U.S. Patent and Trademark Office's policy of aiding the biotechnology industry in protecting its intellectual property. *See id.*

If Applicant has misunderstood the restriction requirement, and if Applicant also is required to elect from between (a) the claims that are directed to peptides per se, and (b) the claims that are directed to a method of stimulating the immune system through administration of one or more peptides, then Applicant elects (a), the claims that are directed to SEQ ID NO: 18 per se, which are Claims 49-52.

In view of the foregoing, Applicant requests favorable treatment of this request for reconsideration.

Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

A handwritten signature in black ink, reading "John W. Behringer". The signature is fluid and cursive, with the first name "John" being the most prominent.

John W. Behringer
Registration No. 23,086
Attorney for Applicant

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

JWB/JMC/gmc

DC_MAIN 219209v1